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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,216	12/26/2001	Robert T. Long SR.	1547520/86600	7380

7590 07/11/2008  
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EXAMINER
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KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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07/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/033,216	<b>Applicant(s)</b> LONG, ROBERT T.	
	<b>Examiner</b> BASIL KATCHEVES	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The applicant has cancelled claims 1-24. Pending claims 25-38 are examined below.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 25-28, 37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,138,981 to Keith et al.**

Regarding claims 25 and 37, Keith discloses a wall panel comprised of two concrete layers (fig. 2: 86, 88) and an insulating layer (84), a plurality of elongated connectors (fig. 3: 106), having bodies extending from between concrete layers and having ends completely embedded and surrounded by concrete (106), the body has elongated portions (fig. 3: see front and back longitudinal sides which are perpendicular to upper web 92 and bottom web 22) which extend longitudinally for the length of the body, and the longitudinal portions are laterally spaced apart by a web (web 92 thickness extends the length of the connector) having a thickness equal or less and running the length of the body and each connector having two anchorage ends (see ends) inherently capable of transferring forces throughout the wall.

Regarding claim 26, Keith discloses the wall as being composite, and the inherent ability of the connector to transfer forces.

Regarding claim 27, Keith discloses a perpendicular lip (fig. 3: unmarked lips of connector 106 shown aligned with lips 32) centrally located. Also, regarding the premolded limitation, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

Regarding claim 28, Keith discloses the use of fiber reinforced polymer (column 8, lines 45-54) for the connector.

**Claims 29-34, 36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,138,981 to Keith et al. as in the previous action.**

Regarding claims 29, 30 34, and 38, Keith discloses a wall panel comprised of two concrete layers (fig. 2: 86, 88) and an insulating layer (84), a plurality of elongated connectors (fig. 3), having bodies extending from between concrete layers, the body has elongated portions (fig. 1D: top side 12 and bottom side opposite to top 12) which extend longitudinally for the length of the body, and the longitudinal portions are laterally spaced apart by a web (thickness 18) having a thickness equal or less and running the

length of the body and each connector having two anchorage ends (see ends) inherently capable of transferring forces throughout the wall.

Regarding claim 31, Keith discloses the wall as being composite, and the inherent ability of the connector to transfer forces.

Regarding claim 32, Keith discloses a perpendicular lip (30) centrally located.

Regarding claims 28 and 33, Keith discloses the use of fiber reinforced polymer (column 8, lines 45-54) for the connector.

Regarding claim 36, Keith discloses an anchoring surface formed transversely across the longitudinal portions (fig. 1D: see both the plurality of anchoring notches 53, and the component 26 which passes through both sides).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.**

**Patent No. 6,138,981 to Keith et al.**

Regarding claim 35 Keith does not disclose anchoring surfaces formed transversely across the longitudinal direction. However, Keith discloses an anchoring surface formed transversely across the longitudinal portions (fig. 1D: see both the

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plurality of anchoring notches 53, and the component 26 which passes through both sides) of connector 18. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify connector 106 by adding the anchoring surfaces disclosed by connector 18 in order to better secure the connector 106 within the wall.

### **Response to Arguments**

Applicant's arguments filed 3/20/08 have been fully considered but are not persuasive. The applicant argues the newly amended claims which are addressed in the new rejection above. Regarding the web limitation, the applicant argues that the prior art (Keith) does not have a web as claimed. The applicant should note that a web is merely a connection between two portions. This is shown and explained in the rejection above and the web has a length as claimed. Also, the applicant argues the composite form is not the same as the composite form claimed. However, the structural limitations of the applicants composite form are met, as claimed, since the prior art has a composite form.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635